S.B. CIVIL WRIT PETITION NO. 4445/2006.

(SHANTI LAL VS. ADJ NO.2, JODHPUR & ORS.)

DATE OF ORDER : 06.08.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. A.K. Acharya for the petitioner.

Under a notice dated 09.04.2006 issued by the Estate Officer, Department of Devasthan, Jodhpur exercising powers conferred by sub-section 1 of Section 4 of the Rajasthan Public Premises (Removal of unauthorised Occupants) Act, 1964, the petitioner was called upon to show cause as to why he be not evicted from the public premises being having unauthorized occupation thereon. By the notice aforesaid, the petitioner was charged to have unauthorized construction and an encroachment on a public land measuring 9 ft. x 10 ft. while having tenancy for public premises in 106, Jadechi Raj Bhawan, Jodhpur. The Estate Officer after hearing the petitioner by the order dated 16.01.1999 held the petitioner trespasser and, therefore, ordered for eviction of the petitioner from the public premises No.106 and from the area said to be encroached.

Being aggrieved by the same, the petitioner preferred an appeal under Section 9 of the Act of 1964 and that

also came to be rejected by the order impugned dated 29.05.2004 passed by the Additional District Judge No.2, Jodhpur.

While assailing validity of the order aforesaid, the contention of counsel for the petitioner is that the Estate Officer erred in holding the petitioner as a trespasser.

I do not find any substance in the contention so raised. From perusal of the order passed by the Estate Officer as well as by the appellate court, it is apparent that the petitioner himself accepted that he encroached a land measuring 9 ft. x 10 ft. to keep a pet animal thereon. The petitioner, therefore, admittedly violated a condition of tenancy and, therefore, the courts below rightly held an unauthorized occupant of the premises. Thus, the orders impugned do not suffer from any error that may warrant interference of this Court.

Beside the above, I have also found a deliberate delay on part of the petitioner in pressing this petition for writ. The challenge to the order dated 09.05.2004 though was presented on 19.08.2004, but the same was not registered as the petitioner failed to remove defects pointed out by the

Registry for a period of about two years despite several opportunities. The defects stood removed on 14.08.2006 and then only the writ petition was registered. The conduct of the petitioner clearly establishes that he was not vigilant in pressing the petition for writ and kept the same lying in defect side for more than two years.

The writ petition, for the reasons mentioned above, is dismissed.

(GOVIND MATHUR)J.

Anil/